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Cheryl N. Sanchez

APPEAL

Serial No.: 09/902,440

Filing Date: 07/10/01

GAU: 3677

Exam: Lugo, C.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

IN RE APPLICATION OF: Ulbrich et al.

SERIAL NO.: 09/902,440

FILED: July 10, 2001

TITLE: Locking System for Gooseneck Trailer Hitch

ATTORNEY DKT. NO.: 22578.3

GROUP ART UNIT: 3677

EXAMINING ATTORNEY: Lugo, Carlos

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APPEAL BRIEF

This Appeal Brief is being filed within three (3) months of the filing of a Notice of Appeal on December 10, 2003 (date received in the USPTO shown by return postcard as December 12, 2003). A petition and fee for a one (1) month extension of the period of time for filing is submitted herewith. Applicant respectfully requests review of this Appeal Brief.

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REAL PARTY IN INTEREST

The Real Party in Interest of the present invention is Dennis R. Ulbrich. The co-inventor, Derrick A. Pizarro, has assigned his entire right, title, and interest in this invention to Dennis R. Ulbrich.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant, the Appellant's legal representative, or the assignee, which may directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

The original application of the present invention contained twenty-one (21) claims. Claims 1-7 and 12-14 have been withdrawn from consideration. Claims 10, 11, 15 and 16 have been cancelled. Claims 8 and 21 are independent. Claims 9, 17 and 18 depend from Claim 8. Claims 19 and 20 depend from Claim 9. Each of Claims 8, 9 and 17-21 stands rejected. The rejection of each of Claims 8, 9 and 17-21 is appealed.

STATUS OF AMENDMENTS

Applicant filed an amendment on August 6, 2003, in response to an Office Action mailed May 21, 2003. The amendment **was entered** and a Final Office Action was mailed September 10, 2003. No Amendment after Final has been submitted. A Notice of Appeal was filed on December 10, 2003.

Copies of Claims 8, 9 and 17-21 as presently pending in the Application are attached hereto as **Exhibit A**.

SUMMARY OF INVENTION

The invention of the claims of the present Application that are on Appeal is one of a number of embodiments originally disclosed and claimed in the Application. This embodiment

(the third embodiment described in the specification) is shown in Figs. 12-14, 17 and 18. All of the embodiments disclosed in the present Application relate to devices for locking a gooseneck type trailer hitch in a manner that prevents the unauthorized hitching or unhitching of the trailer.

A standard gooseneck trailer hitch coupling and its operation are generally described in Figs. 1-5 of the present Application, which figures are each labeled "Prior Art". The standard coupling may be described as having a cylindrical "post" (1), the top of which is secured to the trailer (not shown) and the bottom of which engages a hitch ball (23) positioned on a truck or other towing vehicle. The bottom portion of the cylindrical post includes a fixed plate (5) and a parallel, pivotally connected, sliding plate (3), each having an aperture into which the hitch ball may be received. When the hitch ball is positioned in the apertures of the two plates, the sliding plate may be moved to one side in a manner that partially "closes" the pair of apertures around the neck of the hitch ball so as to prevent the wider ball portion of the hitch ball from being removed again through the partially closed apertures.

The sliding plate (3) extends beyond one side of the cylindrical post to form a support for a bracket (4) that defines a flat slot. The fixed plate (5) likewise extends beyond the cylindrical post to a point where it extends into a portion of the flat slot mentioned above. As the sliding plate (3) moves side to side (thus moving the bracket (4) side to side) the extension of the fixed plate "moves" side to side within the flat slot. A spring loaded latch handle (2) includes a pin that may alternately extend into or be removed from a series of small apertures coaxially formed in the top and bottom of the flat slot (attached to the sliding plate) and in the fixed plate. When these small apertures are aligned (as when the sliding plate "closes" around the hitch ball neck) the handle pin extends into the aligned small apertures and serves to retain the sliding plate in the "closed" position. This closed position either holds the trailer onto the hitch ball (if the sliding

plate is moved after the hitch is coupled) or prevents engagement of the hitch ball (if the sliding plate is moved before an attempt is made to couple the hitch).

The embodiment at issue on Appeal (the third embodiment) includes a specially designed hasp bar and lock body that either (1) engage and obstruct the flat slot, or (2) engage and obstruct the flat slot and the latch handle; in a manner that (1) prevents the movement of the sliding plate regardless of the position of the latch handle or (2) prevents the movement of the sliding plate AND prevents the unlatching of the latch handle at the same time. The key features of the described embodiment are the structure and placement of the hasp bar into the flat slot in the bracket positioned on the extension of the sliding plate in a manner that prevents the side to side movement of the sliding plate, AND the structure and placement of the lock body onto the hasp bar in a manner that optionally engages and immobilizes the latch handle at the same time it immobilizes the sliding plate.

ISSUES

Issue 1: Whether Claims 8, 17 and 21 are unpatentable under 35 U.S.C. § 103(a), over prior art in view of U.S. Patent No. 3,780,546 to Longenecker or in view of U.S. Patent No 5,052,203 to Van Cuyk

Issue 2: Whether Claims 9 and 19 are unpatentable under 35 U.S.C. § 103(a), over prior art in view of U.S. Patent No. 3,780,546 to Longenecker or in view of U.S. Patent No 5,052,203 to Van Cuyk and further in view of U.S. Patent No 4,699,395 to Hale.

Issue 3: Whether Claims 9 and 19 are unpatentable under 35 U.S.C. § 103(a), over prior art in view of U.S. Patent No. 3,780,546 to Longenecker or in view of U.S. Patent No 5,052,203 to Van Cuyk and further in view of U.S. Patent No. 2,204,882 to Berluti.

Issue 4: Whether Claims 18 and 20 are unpatentable under 35 U.S.C. § 103(a), over prior art in view of U.S. Patent No. 3,780,546 to Longenecker or in view of U.S. Patent No 5,052,203 to Van Cuyk and further in view of U.S. Patent No. 4,380,160 to Hoffman.

Copies of **Longenecker, Van Cuyk, Hale, Berluti and Hoffman** are attached hereto as Exhibits B, C, D, E and F respectively. A copy of the Final Office Action dated September 10, 2003 is attached hereto as Exhibit G.

GROUPING OF CLAIMS

Claims 8, 9 and 17-20 stand or fall together. Claim 21 has elements that are distinct and therefore stands or falls on its own.

ARGUMENT

I. The § 103(a) Rejection of Claims 8, 17 and 21 (Longenecker/Van Cuyk)

The Examiner has rejected Claims 8, 17, and 21 on the basis of 35 U.S.C. § 103(a) as being unpatentable over the Prior Art in view of U.S. Patent No. 3,780,546 to Longenecker or in view of U.S. Patent No. 5,052,203 to Van Cuyk.

A. The bumper hitch art of Longenecker and the fifth-wheel hitch art of Van Cuyk are not analogous to gooseneck hitch art.

First, Applicant respectfully argues that neither Longenecker nor Van Cuyk is analogous art with respect to the subject matter in issue, as required by MPEP § 2141.01(a). Longenecker is a device for closing off the socket portion of a ball-in-socket bumper hitch by locking a plate in position to cover the socket. It does not even contemplate the possibility of locking the socket portion of the structurally distinct hitch onto the ball. The invention disclosed in Van Cuyk is explicitly described as "[a] lock apparatus adapted for use with a fifth wheel plate having a king pin." See Van Cuyk, col. 4, lines 15-16; see also Van Cuyk, col.1, lines 39-41 and lines 64-66. It is well understood by those of skill in the art that a fifth wheel coupling mechanism operates

differently from a gooseneck trailer hitch coupling mechanism. Specifically, the grooved king pin-and-plate assembly is a completely different structure than the hitch-ball-accepting cavity of a gooseneck trailer hitch. Thus the Van Cuyk hitch is an entirely different class of hitch than that of the present invention. Therefore, those of skill in the art would not consider "a lock apparatus adapted for use with a fifth wheel plate having a king pin" as being in the field of Applicant's endeavor or as reasonably pertinent to the particular problem with which Applicant's invention was concerned because Applicant's invention is specifically directed towards gooseneck trailer hitches.

The same may be said for the bumper hitch art of Longenecker. That bumper hitch has no retainer bracket or hitch ball engagement plate; indeed, the respective structures of a bumper hitch and gooseneck hitch are similar only in that they each accept a hitch ball. Thus, a bumper hitch is not reasonably pertinent to the gooseneck trailer hitch security problem solved by the present invention. Even if the Longenecker device could be shown to be analogous art, it fails entirely to teach the function of locking the trailer side of the hitch to the vehicle side of the hitch and thus provides no basis for a solution to this problem.

B. Combination of the Prior Art with the teachings of Longenecker and Van Cuyk would render the present invention non-functional.

As discussed in detail above, it would be impossible to use the inventions disclosed in Longenecker and Van Cuyk to lock a trailer to a moving vehicle while the trailer is in tow to prevent the trailer from becoming unhitched while the towing vehicle is moving, which is one of the explicit goals and advantages of Applicant's invention. Neither Longenecker nor Van Cuyk teaches the use of a locking mechanism capable of locking a trailer to a moving vehicle while the trailer is in tow.

The invention disclosed in Longenecker explicitly makes it "impossible to couple the ball and socket of the trailer hitch." See Longenecker, col. 1, lines 4-6. Similarly, the invention disclosed in Van Cuyk "provides a protective enclosure for king pin which prevents the unauthorized coupling of a truck tractor with a trailer." See Van Cuyk, col. 1, lines 39-41. As a result, those of skill in the art would not consider the inventions disclosed in Longenecker and Van Cuyk as being reasonably pertinent to the particular problem with which Applicant's invention as applied to the Prior Art is concerned, as one object of Applicant's invention is preventing a trailer from becoming unhitched while the trailer is in tow.

Even the application of locking the hitch assembly to prevent its attachment to the vehicle portion of the coupling is fundamentally distinct from the same application in Longenecker and Van Cuyk. The king pin disclosed in Van Cuyk finds as its closest equivalent the ball (on the vehicle side of the coupling) of the gooseneck hitch of the present invention. The locking device in Van Cuyk is attached to this "ball like" component of the hitch while in the present invention the locking mechanism is structured to operate on the moving plate assemblies in the Prior Art that are associated with the "socket like" component of the hitch. While the Longenecker device does serve to block access to the "socket" portion of the hitch there are no moving or sliding plates associated with the structure of the hitch that would lead one skilled in the art to contemplate Longenecker as suggesting a solution to the more complicated (and distinct) structure of the gooseneck trailer hitch component. Longenecker introduces a cover into the hitch assembly that would not otherwise be present. The present invention makes use of the existing structures of the hitch assembly to provide a platform for implementing the hasp bar and lock mechanism.

C. There is no motivation to modify or combine the teachings of Longenecker and Van Cuyk.

Applicant respectfully submits that the Examiner has not demonstrated that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings as required by MPEP §2143. Neither Longenecker nor Van Cuyk teaches or suggests the use of the inventions disclosed in those references with gooseneck trailer hitches. There is no mention of gooseneck trailer hitches anywhere in either reference. In fact, as described above, Van Cuyk is directed towards an *entirely* different type of hitching mechanism, a fifth wheel plate having a king pin. Longenecker, directed toward bumper hitch art, is similarly directed toward a much different class of hitches. Thus, the rejection is improper because the Examiner has failed to identify a teaching, suggestion, or motivation to combine either Longenecker or Van Cuyk with the Prior Art. **The Examiner erred by summarily dismissing Applicant's non-analogous art argument and drawing in all "hitch" related devices regardless of their structure and function.**

D. Longenecker and Van Cuyk do not teach all the claim limitations.

Longenecker and Van Cuyk, whether individually or together, fail to teach or suggest all the claim limitations of Applicant's invention. Claim 8 of Applicant's invention, from which Claims 17 and 18 depend, discloses "a retainer bracket defining a slot in which an extension of a hitch ball engagement plate is slidably disposed." Further, Applicant's Claim 8 teaches a "hasp bar insertable into said slot of the retainer bracket." The Examiner contends that Longenecker teaches "that is known in the art to have a hasp bar (18) inserted into a slot on a retainer bracket (5) and means (15) to lock the hasp bar to the retainer bracket." However, Applicant asserts that Longenecker teaches neither a slot nor a slidable plate. Rather than disclosing a hasp bar inserted

into a slot which contains a slidable plate, Longenecker discloses a notched prong (18) that projects into a cavity (16) containing the body (15) of a padlock. *See* Longenecker, col. 4, lines 29-39. Applicant respectfully points out that a cavity containing the body of a padlock is completely different from a slot containing a slidable plate. For this reason, Longenecker fails to teach or suggest all the limitations of Applicant's Claims 8, 17, and 21.

Similarly, Van Cuyk also fails to teach or suggest all the limitations of Applicant's Claim 8. The Examiner states that Van Cuyk teaches “that is known in the art to have a hasp bar (50) inserted into a slot on a retainer bracket (30 and 40) and means (48) to lock the hasp bar to the retainer bracket.” However, Applicant asserts that Van Cuyk teaches neither a slot nor a slidable plate. Rather than disclosing a hasp bar inserted into a slot which contains a slidable plate, Van Cuyk discloses a padlock (48) having a shackle (50) adapted to be received by a hole (34) in a latch member (28) when the latch member is in the locked position and the hole is in the second ear (42) of a lock member (40). *See* Van Cuyk, col. 3, lines 51-66. Applicant respectfully points out that a hole in a latch member is completely different from a slot containing a slidable plate. Thus, Van Cuyk fails to teach or suggest all the limitations of Applicant's Claims 8, 17, and 21.

Reference should additionally be made to further distinctions to be found in Claim 21 in this regard. Claim 21 recites a structure that allows the hasp bar to engage the latch handle and prevent its movement in addition to preventing the movement of the sliding plate through the engagement of the hasp bar with the slot. **The Examiner erred by ignoring this further limitation in Claim 21 and summarily dismissing Claim 21 by grouping it with Claims 8 and 17, neither of which include the latch handle engagement limitation.**

II. The § 103(a) Rejection of Claims 9 and 19 (Longenecker/Van Cuyk/Hale)

The Examiner has rejected Claims 9 and 19 under § 103(a) as being unpatentable over Prior Art in view of Longenecker or in view of Van Cuyk and further in view of Hale.

A. It is improper to combine the non-analogous art of Longenecker and Van Cuyk with Hale.

As explained above, Applicant respectfully submits that Longenecker and Van Cuyk are non-analogous art with respect to the subject matter at issue, as required by MPEP § 2141.01(a), because neither is directed toward gooseneck trailer hitches. Importantly, combination of Longenecker, Van Cuyk and Hale would render it impossible to utilize the present invention for one of its intended purposes of securing a gooseneck trailer hitch to a hitch ball, such as while a trailer is in tow. One of skill in the art simply would not look to the cited non-gooseneck trailer hitch art directed toward preventing insertion of a hitch ball, in combination with Hale, to arrive at Applicant's invention.

B. There is no motivation to modify or combine the teachings of Longenecker, Van Cuyk, and Hale.

Second, Applicant respectfully argues that the Examiner has not demonstrated that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Longenecker, Van Cuyk, and Hale or to combine reference teachings. Although Hale suggests the use of the invention disclosed therein with gooseneck trailer hitches, neither Longenecker nor Van Cuyk suggests the use of the inventions disclosed in those references with gooseneck trailer hitches. Although Hale teaches the use of a locking mechanism capable of locking a trailer to a moving vehicle while the trailer is in tow, neither Longenecker nor Van Cuyk teaches or suggests such a use.

C. Longenecker, Van Cuyk, and Hale do not teach all the claim limitations.

In addition, Longenecker, Van Cuyk, and Hale do not teach or suggest all of the claim limitations of Claims 9 and 19. Claim 9 of Applicant's application, from which Claim 19 depends, discloses that "said hasp bar engages said latch handle upon insertion into said slot of said retainer bracket." Claim 8, from which Claim 9 depends, includes the limitation that the slot into which the hasp bar is inserted contains a slidable plate. As explained above, neither Longenecker nor Van Cuyk teaches a slot containing a slidable plate, as Longenecker teaches a cavity which contains the body of a padlock and Van Cuyk teaches a hole in a latch member. The Examiner contends that Hale teaches "that is known in the art to have a hasp bar engaging a latch arm (32) when the hasp bar is inserted into a slot on a retainer bracket (30) and means to lock the hasp bar to the retainer bracket (Figure 1)." However, Applicant asserts that Hale does not disclose a slot which contains a slidable plate, as Hale teaches a handle (32) which has a protruding rod (40) which enters into the matching securing openings (42) in the sides of a rotatable retaining sleeve (39), thereby preventing rotation of the rotatable retaining sleeve (30). *See Hale*, col. 3, lines 44-62. Applicant respectfully points out that "matching securing openings in the sides of a rotatable retaining sleeve" are limitations that are entirely different from a slot containing a slidable plate. Thus, Longenecker, Van Cuyk, and Hale fail to teach or suggest all the limitations of Applicant's Claims 9 and 19.

III. The § 103(a) Rejection of Claims 9 and 19 (Longenecker/Van Cuyk/Berluti).

The Examiner has rejected Claims 9 and 19 under § 103(a) as being unpatentable over Prior Art in view of Longenecker or in view of Van Cuyk and further in view of Berluti.

A. The bumper hitch art of Longenecker and Berluti and the fifth-wheel hitch art of Van Cuyk are not analogous to gooseneck hitch art.

Again, as explained above, Applicant respectfully argues that neither Longenecker, Van Cuyk nor Berluti are analogous art with respect to the subject matter at issue, as required by MPEP § 2141.01.(a), because none is directed toward gooseneck trailer hitches. Significantly, the combination of Longenecker, Van Cuyk and Berluti would render it impossible to utilize the present invention for one of its intended purposes of securing a gooseneck trailer hitch to a hitch ball, such as while a trailer is in tow. One of skill in the art simply would not look to the cited non-gooseneck trailer hitch art of Longenecker and Van Cuyk that are directed toward preventing insertion of a hitch ball, in combination with Berluti, to arrive at Applicant's invention.

B. There is no motivation to modify or combine the teachings of Longenecker, Van Cuyk, and Berluti.

Second, Applicant respectfully submits that the Examiner has not demonstrated that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Longenecker, Van Cuyk, and Berluti or combine reference teachings. None of the three cited references suggest the use of the inventions disclosed in those references with gooseneck trailer hitches. Indeed, aside from the fact that a bumper hitch may also accept a hitch ball, none of the cited references is, in any way structurally similar or analogous to the gooseneck trailer hitch of the prior art with all of its additional elements and complexities. Although Berluti teaches the use of a locking mechanism capable of locking a trailer to a moving vehicle while the trailer is in tow, neither Longenecker nor Van Cuyk teaches or suggests such a use.

C. Longenecker, Van Cuyk, and Berluti do not teach all the claim limitations.

In addition, Longenecker, Van Cuyk, and Berluti do not teach or suggest all the claim limitations of Claims 9 and 19. Claim 9 of Applicant's application, from which Claim 19 depends, discloses that "said hasp bar engages said latch handle upon insertion into said slot of said retainer bracket." Claim 8, from which Claim 9 depends, includes the limitation that the slot into which the hasp bar is inserted contains a slidable plate. As explained above, neither Longenecker nor Van Cuyk teaches a slot containing a slidable plate, as Longenecker teaches a cavity which contains the body of a padlock and Van Cuyk teaches a hole in a latch member. The Examiner contends that Berluti teaches "that is known in the art to have a hasp bar engaging a latch arm (23) when the hasp bar is inserted into a slot on a retainer bracket (15) and means to lock the hasp bar to the retainer bracket (Figure 1)." However, Applicant asserts that Berluti does not disclose a slot which contains a slidable plate. Rather, Berluti teaches the following:

An opening 31 is provided adjacent the outer end of the locking lever 23, said opening registering with a similar opening 32 provided in the lug 33, which is formed integral with the casting 8, and when the locking lever is swung down to position shown in Fig.1 of the drawing, these openings will be in alignment so that the hasp of the conventional lock L can be inserted there through to lock the ball in the socket and prevent theft and/or unauthorized manipulation of the hitch.

See Berluti, col. 2, lines 36-46. Applicant respectfully points out that an "opening" at the end of a lever through which a hasp can be inserted is a limitation that is entirely different from a slot containing a slidable plate. Thus, Longenecker, Van Cuyk, and Hale fail to teach or suggest all the limitations of Applicant's Claims 9 and 19.

IV. The § 103(a) Rejection of Claims 8 and 20 (Longenecker/Van Cuyk/Hoffman).

The Examiner has rejected Claims 8 and 20 under § 103(a) as being unpatentable over Prior Art in view of Longenecker or in view of Van Cuyk and further in view of Hoffman.

A. Hoffman teaches only the use of a combination lock in place of a key lock.

All of the arguments presented above with regard to Longenecker and Van Cuyk are equally applicable here in their citation in combination with Hoffman. Hoffman merely teaches the use of a combination lock in place of key operated lock and adds no suggestion of an application of the structures of Longenecker and/or Van Cuyk to the field of gooseneck trailer hitches and couplings. Applicant reiterates and restates here all of the above arguments regarding the non-analogous art character of Longenecker and Van Cuyk.

V. General

Every issue identified above includes the question of the applicability of the Longenecker and Van Cuyk cited references. The Examiner has erred generally by drawing in non-analogous art, ignoring the structural differences not only in the process of deciding whether the art should be seen as relevant, but also ignoring the structural differences in lining up the art against the structural limitations claimed in the present case. The Examiner has erred by viewing the claimed invention as being merely a pad lock on a trailer hitch. Certainly the claims as presently stated are not so broad as to encompass such a sweeping coverage. The present invention is specific to gooseneck trailer hitch structures and is further specific to the ability to lock the hitch while the coupling is connected AND while the coupling is disconnected. It is the structure and function that defines the relevant art, not simply the semantic association of all “hitch” structures into an analogous field. This is especially true when both the structures in the prior art are different and the purpose of the claimed device is different. **In summary, the Examiner erred by citing non-analogous art and further erred by then failing to associate and align all elements in the claims with any analogous elements in the cited references.**

CONCLUSION

For the foregoing reasons, Appellant believes that the Examiner's rejections of Claims 8, 9 and 17-21 were erroneous, and reversal of his decision is respectfully requested.

Respectfully submitted,
COX & SMITH INCORPORATED

A handwritten signature in cursive script, reading "Pamela B. Huff", is written over a horizontal line.

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CLAIMS PENDING (ON APPEAL)

Claim 8. A locking apparatus for a gooseneck trailer hitch having a retainer bracket defining a slot in which an extension of a hitch ball engagement plate is slidably disposed, the locking apparatus comprising:

a hasp bar insertable into said slot of the retainer bracket adjacent said extension of said hitch ball engagement plate such that said plate is substantially immobilized within said slot; and

a lock body for releasably locking said hasp bar in said slot of said retainer bracket so as to alternately prevent and permit movement of said hitch ball engagement plate within said slot.

Claim 9. The locking apparatus of claim 8 wherein said gooseneck trailer hitch further comprises a movable latch handle adjacent said retainer bracket and said hasp bar engages said latch handle upon insertion into said slot of said retainer bracket so as to alternately prevent and permit movement of said latch handle.

Claim 17. The locking apparatus of claim 8 wherein said lock body comprises a key operated locking mechanism fixable on a first end of said hasp bar.

Claim 18. The locking apparatus of claim 8 wherein said lock body comprises a code operated combination locking mechanism fixable on a first end of said hasp bar.

Claim 19. The locking apparatus of claim 9 wherein said hasp bar comprises a "U" shaped bar and said lock body comprises a key operated locking mechanism fixable on first and second ends of said hasp bar, wherein said latch handle is engaged by said hasp bar by being positioned within said "U" shaped bar prior to fixing said locking mechanism thereon.

Claim 20. The locking apparatus of claim 9 wherein said hasp bar comprises a "U" shaped bar and said lock body comprises a code operated combination locking mechanism fixable on first and second ends of said hasp bar, wherein said latch handle is engaged by said hasp bar by being positioned within said "U" shaped bar prior to fixing said locking mechanism thereon.

Claim 21. A locking apparatus for a gooseneck trailer hitch having a retainer bracket defining a slot in which an extension of a hitch ball engagement plate is slidably disposed, and having a movable latch handle adjacent said retainer bracket, the locking apparatus comprising:

a hasp bar insertable into said slot of the retainer bracket adjacent said extension of said hitch ball engagement plate such that said plate is substantially immobilized within said slot; and

a lock body for releasably locking said hasp bar in said slot of said retainer bracket so as to alternately prevent and permit movement of said hitch ball engagement plate within said slot;

wherein said hasp bar engages said latch handle upon insertion into said slot of said retainer bracket so as to alternately prevent and permit movement of said latch handle.

EXHIBIT A



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,440	07/10/2001	Dennis R. Ulbrich	22578.3	5506

716 7590 09/10/2003
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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3677

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED:	09 16 03
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EXHIBIT "G"

Office Action Summary

Application No.

09/902,440

Applicant(s)

ULBRICH ET AL.

Examiner

Carlos Lugo

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on See Office Action is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on August 11, 2003.

Drawings

2. The drawings filed on July 10, 2001 and in August 11, 2003 (corrections) were approved by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 8,17 and 21 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Prior Art in view of US Pat No 3,780,546 to Longenecker or in view of US Pat No 5,052,203 to Van Cuyk.

The Prior Art discloses a locking apparatus for a gooseneck trailer hitch. However, the Prior Art fails to disclose the use of a hasp bar insertable into a slot of the retainer bracket and means to lock the hasp bar in the slot.

Longenecker teaches that is known in the art to have a hasp bar (18) inserted into a slot on a retainer bracket (5) and means (15) to lock the hasp bar to the retainer bracket.

Van Cuyk also teaches that is known in the art to have a hasp bar (50) inserted into a slot on a retainer bracket (30 and 40) and means (48) to lock the hasp bar to the retainer bracket.

It would be obvious to one having ordinary skill in the art at the time the invention was made to use a padlock, as taught by either Longenecker or Van Cuyk, into a gooseneck trailer hitch as described by the Prior Art, in order to lock the gooseneck trailer hitch.

5. **Claims 9 and 19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Prior Art in view of US Pat No 3,780,546 to Longenecker or in view of US Pat No 5,052,203 to Van Cuyk and further in view of US Pat No 4,699,395 to Hale.

The Prior Art, as modified by either Longenecker or Van Cuyk, fails to disclose that the hasp bar engages a latch handle of the locking apparatus.

Hale teaches that is known in the art to have a hasp bar engaging a latch arm (32) when the hasp bar is inserted into a slot on a retainer bracket (30) and means to lock the hasp bar to the retainer bracket (Figure 1).

It would be obvious to one having ordinary skill in the art at the time the invention was made to have the hasp bar engaged to a latch arm when the hasp bar is inserted into a slot on a retainer bracket and then locked, as taught by Hale, into a gooseneck trailer hitch as described by the Prior Art, as modified by either Longenecker or Van Cuyk, in order to lock the gooseneck trailer hitch.

6. **Claims 9 and 19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Prior Art in view of US Pat No 3,780,546 to Longenecker or in view of US Pat No 5,052,203 to Van Cuyk and further in view of US Pat No 2,204,882 to Berluti.

The Prior Art, as modified by either Longenecker or Van Cuyk, fails to disclose that the hasp bar engages a latch handle of the locking apparatus.

Berluti teaches that is known in the art to have a hasp bar engaging a latch arm (23) when the hasp bar is inserted into a slot on a retainer bracket (15) and means to lock the hasp bar to the retainer bracket (Figure 1).

It would be obvious to one having ordinary skill in the art at the time the invention was made to have the hasp bar engaged to a latch arm when the hasp bar is inserted into a slot on a retainer bracket and then locked, as taught by Berluti, into a gooseneck trailer hitch as described by the Prior Art, as modified by either Longenecker or Van Cuyk, in order to lock the gooseneck trailer hitch.

7. **Claims 18 and 20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Prior Art in view of US Pat No 3,780,546 to Longenecker or in view of US Pat No 5,052,203 to Van Cuyk and further in view of US Pat No 4,380,160 to Hoffman.

The Prior Art, as modified by either Longenecker or Van Cuyk, fails to disclose the use of a combination lock body.

Hoffman teaches that is known in the art use a combination lock body (50, Col. 4 Lines 42-47).

It would be obvious to one having ordinary skill in the art at the time the invention was made to have to use a combination lock body, as taught by Hoffman, into a device as described by the Prior Art, as modified by either Longenecker or Van Cuyk, because it will not affect the locking engagement of the elements and it will perform as well as a common lock body (padlock).

Response to Arguments

8. Applicant's arguments filed on August 11, 2003 have been fully considered but they are not persuasive.

Regarding applicant's arguments that Longenecker and Van Cuyk are not analogous art (Page 8 line 18), Longenecker and Van Cuyk are indeed analogous art. Longenecker and Van Cuyk teach a hitch locking apparatus, same art as the invention claimed.

As to applicant's arguments that it is impossible to combine the Prior Art with the teachings of either Longenecker or Van Cuyk (Page 9 Line 17), the Prior Art, as modified by either Longenecker or Van Cuyk, discloses the invention as claimed.

The Prior Art only fails to disclose the use of a hasp bar, in combination with a lock body, in order to inserted through a hole in the retainer, in other words, the use of a common padlock to lock the apparatus (as seen in Figures 12 and 13).

Longenecker and Van Cuyk teaches that is known in the art to have a hitch lock having a retainer with a hole, wherein a hasp bar, in combination with a lock body (a common padlock) is used to secure the apparatus.

As to applicant's arguments that there is no motivation to combine the Prior Art with the teachings of Longenecker and Van Cuyk (Page 10 Line 9), it would be obvious to combine the Prior Art with the teachings of either Longenecker or Van Cuyk, in order to lock a hitch.

As to applicant's arguments that neither Longenecker nor Van Cuyk discloses all the limitations claimed (Page 11 Line 1), the Prior Art already disclose the basic limitations claimed (see rejection above).

As to applicant's arguments that the Prior Art, as modified by Longenecker or Van Cuyk, and further as modified by Hale, fails to disclose the invention as claimed (Page 12 Line 3), Hale is provided to show that is known in the art to have a hasp bar with a lock body (a common padlock) securing a handle.

As to applicant's arguments that Hale is not analogous art (Page 12 Line 7), Hale teaches a hitch locking apparatus, same art as the invention claimed.

As to applicant's arguments that there is no motivation to combine the Prior Art, as modified Longenecker or Van Cuyk, with the teachings of Hale (Page 12 Line 17), it would have been obvious to made this combination in order to secure the latch arm (see the rejection above).

As to applicant's arguments that Longenecker, Van Cuyk or Hale discloses all the limitations claimed (Page 13 Line 4), the Prior Art already discloses the basic limitations claimed (see rejection above).

As to applicant's arguments that Berluti is not analogous art (Page 14 Line 6), Berluti teach a hitch locking apparatus, same art as the invention claimed.

As to applicant's arguments that there is no motivation to combine the teachings of Longenecker, Van Cuyk and Berluti with the Prior Art (Page 14 Line 16), it would have been obvious to make this combination in order to secure the latch arm (see the rejection above).

As to applicant's arguments that Longenecker, Van Cuyk or Berluti discloses all the limitations claimed (Page 15 Line 3), the Prior Art already discloses the basic limitations claimed (see rejection above).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3677

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo
Examiner
Art Unit 3677

September 2, 2003.


ROBERT J. SANDY
PRIMARY EXAMINER

Notice of References Cited

Application/Control No.

09/902,440

Applicant(s)/Patent Under
Reexamination
ULBRICH ET AL.

Examiner

Carlos Lugo

Art Unit

3677

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-4,380,160	04-1983	Hoffman, William F.	70/14
	B	US-5,743,116	04-1998	Suster, Thomas Mitchel	70/14
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.